

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

RANDALL W. GRAY,)	
)	
Petitioner,)	4:07CV3099
)	
v.)	
)	
ROBERT HOUSTON,)	ORDER
)	
Respondent.)	
_____)	

This matter is before the Court on the order of the United States Court of Appeals for the Eighth Circuit remanding the case for consideration in light of *Tiedeman v. Benson*, 122 F.3d 518 (8th Cir. 1997). The issue presented is whether the Court should issue a certificate of appealability pursuant to Title 28, United States Code, Section 2253(c).

The Court has reviewed its memorandum opinion of January 28, 2008 (Filing No. 25) and finds that the petitioner has failed to make a substantial showing of the denial of a constitutional right. Thus, no certificate of appealability will be issued by this Court. Accordingly,

IT IS ORDERED that no certificate of appealability will be issued by this Court.

DATED this 4th day of March, 2008.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court